

**Carrier Name : CBS Corporation**

Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Disability Rights Office  
445 12th Street, S.W.  
Washington, D.C. 20554

OFFICIAL  
NOTICE OF INFORMAL COMPLAINT

January 2, 2013  
(VIERA) (CBS Corporation)  
FCC Case No. 12-C00443194-1

Attached is a copy of an informal complaint naming your company that was recently filed with the Disability Rights Office (DRO) of the Federal Communications Commission. Pursuant to Section 713 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 613, and Section 79.1 of the Commission's Rules, 47 C.F.R. § 79.1, we direct your company to respond to the complaint. **Your response is due within thirty (30) days of the date of this Notice.**

Your company, as the Multichannel Video Programming Distributor (MVPD), must respond specifically to each matter raised in the complaint and summarize the actions that it has taken to satisfy each such matter. If the programming at issue is reaching you without captions, in responding to the complaint, you have the responsibility to check with the supplying network or program producer before responding to determine that either the material is exempt from the captioning requirements pursuant to one of the categorical exemptions in 47 CFR §79.1(d) or pursuant to an individual petition for exemption filed under 47 CFR §79.1(f).

Please provide the complainant's name and the complaint number at the top of your response. A company that receives and responds to informal complaints electronically **must** submit its responses to the Commission via the FCC website using its DRO log-in. If your company does not receive and respond to informal complaints electronically via the FCC website, you must file a hard copy of your response with the Disability Rights Office of the Federal Communications Commission at 445 12th St., SW, Washington, D.C. 20554. Only if you are required to file a hard copy, please also send a courtesy electronic copy of the response to [DROinquiries&complaints@fcc.gov](mailto:DROinquiries&complaints@fcc.gov) which will expedite processing.

You are further directed to send a copy of your response to the complainant at the time that you forward the response to the Commission. To ensure that your response is received by the complainant in an accessible format, please send it pursuant to the preferred format or method of response indicated by the complainant on the complaint form. Finally, your company is directed to retain all records that are or may be pertinent to the allegations raised in each complaint until final Commission disposition of the complaint at issue.

A failure to answer any lawful Commission inquiry is considered a misdemeanor punishable by a fine under Section 409(m) of the Act, 47 U.S.C. § 409(m). Section 503(b)(1)(B) of the Act, 47 U.S.C. § 503(b)(1)(B), provides for the imposition by the Commission of forfeiture penalties against any person who willfully fails to follow the directives of the Act or of a Commission order.

If you have any questions regarding this Notice, please call the DRO inquiries and complaints assistance line at 202-418-7020 or write to [DROinquiries&complaints@fcc.gov](mailto:DROinquiries&complaints@fcc.gov). To ensure that we can adequately respond to your inquiry, please provide the names of the complainant and your company, the complaint number, and the specific questions that you would like to have answered.

Sincerely,



Susan L. Kimmel, Deputy Chief  
Disability Rights Office  
Consumer and Governmental Affairs Bureau

## **CARRIER RESPONSE COVER PAGE**

**COMPLAINT # :** 12-C00443194-1

**CARRIER :** CBS Corporation

**CONSUMER NAME :** VIERA



**Carrier Instructions:** To better assist the FCC in ensuring that carrier responses are attached to the correct complaint, this cover page has been provided to you for responding to the complaint referenced above. Please ensure that this page precedes your response to this complaint. If you have any questions, please contact your FCC POC.

**FCC Instructions:** When scanning the carrier's response, select file type "Carrier Response" and upload file to the complaint # noted above.

## **Complaint Summary: 12-C00443194-1**

**Date Served :** 01/02/2013

**Response Due Date :** 02/01/2013

**Carrier :** CBS Corporation

**Form Type :** 2000C

**Consumer Name :** VIERA, JUDITH

**Complaint Submission Date:** 11/26/2012

**Complaint Type:** Cable

**Complaint Category:** Disability

**Complaint Sub-Category:** Closed Captioning

**Form 2000C – Disability Access Complaint**

---

**Consumer's Information:**

First Name: **Judith** Last Name: **Viera**

Company Name:

(Complete only if you are filing this complaint on behalf of a company or an organization.)

Post Office Box Number:

(Official Post Office box Number Only)

Address 1: **2004 Discovery Village Lane**

Address 2:

Mailing Address (where mail is delivered)

City: **Gold River** State: **CA** Zip Code: **95670**

Telephone Number (Residential or Business): **(916) 626 - 4942**

E-mail Address: **judyviera@gmail.com**

Are you filing information on behalf of another party, such as client, parent, spouse or roommate?:

**No**

If yes, complete items a through h.

- a. Your relationship with the party:
- b. The party's first name:
- c. The party's last name:
- d. The party's daytime phone number:
- e. The party's street address or post office box number:
- f. City:      State:      Zip Code:
- g. E-mail address:
- h. Fax Number:

**IMPORTANT:** Please indicate the preferred format or method of response to the complaint by the Commission and defendant: **Internet E-mail**

**Form 2000C – Disability Access Complaint**

**\*\*\* ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT \*\*\***

1. Check the appropriate box for your type of complaint:

- **Closed Captioning on television (from a television station or subscription TV provider, for example, cable, fiber optic or satellite)**

2. Provide the name, address and telephone number (if known) of the company(s) involved in your complaint:

Name: **KOVR Channel 13/CBS**

City: **Sacramento** State: **CA** Zip Code:

Telephone number: **(916) 374 - 1313**

3. If your complaint is about accessibility of telecommunications services or equipment, provide the make and model number of the equipment or device that this complaint is about:

4. If your complaint is about closed captioning or emergency information on television, provide the date (mm/dd/yyyy): **10/30/2012 03:04 PM**

and any details of when the event or action you are complaining about occurred:

**This station, in the 20th largest television market, has the constant habit of cutting off captioning during the last minutes of the Dr. Phil show weekday afternoons. This renders Dr. Phil's summary and the final denouement inaccessible. On 10/30/12 captions were cut off 10 minutes before the end of a show about bullying, a subject important to me personally and professionally. I complained directly to the station and was given the excuse that each day they need to prepare for local news which follows Dr. Phil and they haven't found a way to continue captions to the end. However, I was recently in Albuquerque, the 44th largest television market, and the Dr. Phil show there is also followed by local news but captions continue to the very end of the former and begin again at the start of news without interruption.**

5. If your complaint is about access to emergency information on television, provide the following information:

a. Television station call sign and network name (if applicable), or channel name (for example, "WZUF, CBC," "WZUE-TV," "Sportingchannel West"):

b. Channel (for example, "13"):

c. Station or subscription TV provider system location:

City: County:

State:

d. Date(s) and time(s) of emergency:

e. Detailed description of the emergency (for example, flood, hurricane, tornado, etc., as well as the areas in which the emergency occurred):

6. If your complaint is about video description or closed captioning on television, provide the following:

a. Television station call sign and network name (if applicable), or channel name (for example, "WZUF, CBC," "WZUE-TV," "Sportingchannel West"):

b. Channel (for example, "13"):

c. Station or subscription TV provider system location:

City: County:

State:

**Form 2000C – Disability Access Complaint**

**\*\*\* ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT \*\*\***

- d. If you pay to receive television programming, type of subscription service (for example, cable, Satellite):
  - e. If you pay to receive television programming, name of the company to whom you subscribe:
  - f. Name of program(s) involved:
7. If your complaint is about closed captioning of television programs streamed or downloaded from the Internet, provide the following information:
- a. Information about the program viewed (for example, "Orange Blossoms, Season 3, Episode 6"):
  - b. Name, address, website, or e-mail address of the program distributor, provider, and/or owner (for example, "WZUF-CBC.com," "WZUE-TV.com," "SportingchannelWest.com," "TV&MoviesOnline"):
  - c. Information about the device or software used to view the program (for example, manufacturer, model, name of video player software or application):
  - d. Date (mm/dd/yyyy) and time the program was viewed.
8. Briefly describe your complaint and include the resolution you are seeking. If applicable, provide a full description of the telecommunications equipment or customer premises equipment (CPE) and/or the telecommunications service about which the complaint is made, and the date or dates on which the complainant either purchased, acquired or used, or attempted to purchase, acquire or use the telecommunications equipment, CPE or telecommunications service about which the complaint is being made:
- See comments in 4. above. The resolution I am seeking: full and continuous captioning to the very end of the Dr. Phil show.**

You may submit this form over the Internet at <http://www.fcc.gov/cgb/complaints.html>, by e-mail to [fccinfo@fcc.gov](mailto:fccinfo@fcc.gov), by fax to 1-866-418-0232, or by postal mail to:

Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Consumer Complaints  
445 12th Street, SW  
Washington, D.C. 20554

In addition, you may submit your complaint over the telephone by calling 1-888-CALL-FCC or 1-888-TELL-FCC (TTY). If you choose to submit your complaint over the telephone, an FCC customer service representative will fill out an electronic version of the form for you during your conversation. If you have any questions, feel free to contact the FCC at 1-888-CALL-FCC or 1-888-TELL-FCC (TTY).



**CBS**

51 WEST 52 STREET  
NEW YORK, NEW YORK 10019-6188

(212) 975-3968  
FAX: (212) 975-0117  
nreposer@cbs.com

**NICHOLAS E. POSER**  
VICE PRESIDENT  
ASSISTANT GENERAL COUNSEL

**BY EXPRESS MAIL AND ELECTRONIC MAIL**

Ms. Susan L. Kimmel  
Deputy Chief  
Disability Rights Office  
Consumer & Governmental Affairs Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: Notice of Informal Complaint (NOIC) – 12-C00443194-1 (CBS Corporation) (Viera)

Dear Ms. Kimmel:

January 31, 2013

This letter is submitted on behalf of CBS Corporation (“CBS”) and CBS owned television station KQVR, Sacramento (“KQVR” or the “Station”) in response to the above captioned Notice of Informal Complaint, relating to a complaint filed with the Commission by Judith Viera. Ms. Viera alleges that on October 30, 2012 closed captions for the program DR. PHIL ceased ten minutes before the end of the program. She also complains that captions ceased during the “last minutes” of the DR. PHIL program on prior, unspecified occasions. As explained below, Ms. Viera complained directly to the station for the first time about this problem on October 30. The station responded to Ms. Viera the very next day, apologizing to her, explaining it had verified the technical reason for the problem, and informing her it was working to resolve the problem as soon as possible. In fact, the issue was quickly resolved, and ever since November 2 the program has been fully captioned.

KQVR is familiar with the facts surrounding Ms. Viera’s complaint, as it investigated and corrected the problem promptly on receiving an email from her on the afternoon of October 30. Until shortly before the date of the complaint, KQVR supplied closed captions for its locally-produced programming using voice recognition technology operated by station personnel. At the beginning of October 2012, the station replaced the voice captioning of these programs with stenocaptioning, under a contract with Caption Colorado, a captioning company

that provides captioning services for many CBS television stations. There was a seamless transition from the in-house voice captioning to the Caption Colorado-provided stenocaptioning for all of KOVR's locally-produced programs.

DR. PHIL is a syndicated program that comes to the station with captions already inserted. For all but the final segment, the program is played through the station's programming and commercial server in master control, which passes through the embedded captions. The final segment of the show, however, is played out of the station's production control server, in order to allow control room personnel to "squeeze back" the program and create a "double box" once the host of the DR. PHIL program has finished speaking. The purpose of the double box is to allow the program credits to roll in one box and allow the anchors of the station's upcoming newscast to preview upcoming news stories for the audience. The "squeeze back" is not used if DR. PHIL's host continues speaking until the end of the program.

Because the embedded captions do not play from the control room server, the station instead regularly created and inserted closed captions for this final segment using its in-house voice recognition technology and personnel. When the station replaced voice recognition captioning in early October, the station ensured all its locally-produced programming was captioned by Caption Colorado, but overlooked the fact that replacement captions were needed for the short, final segment of the DR. PHIL syndicated program.

As described below, as soon as Ms. Viera informed the station of the problem on October 30, the station promptly investigated, identified and rectified the problem. The station also promptly responded to Ms. Viera, apologizing to her and promising that the problem would be fixed as soon as possible, emailing her as follows on October 31, the day after receiving her complaint:

Dear Ms. Viera,

I would like to apologize for the problem you had with the CC during Dr. Phil on October 30, 2012. We have a technical issue that prevents CC from airing during the last segment of Dr. Phil. I have verified the problem and have contacted the engineering department so they can find a solution. We are working to resolve the issue as quickly as possible....

Please let us know if you have further problems. Closed Captioning is a priority and our engineering department addresses problems immediately.

See October 31, 2012 email from Tami M. Walker, Operations Manager, CBS 13 KOVR, CW 31 KMAX to Judith Viera, attached hereto.

Upon realizing that the captioning of the final segment of DR. PHIL was no longer being captioned because of the transition away from in-house voice recognition captioning, the station promptly contacted Caption Colorado to arrange for it to stenocaption that segment. On November 2 Caption Colorado began captioning the segment, and has done so consistently ever since. Caption Colorado captions both the final short segment of DR. PHIL and any anchor preview of news that appears in a double box after the program's host finishes speaking. See January 28, 2013 email from Sharra Shedletsky, Manager of CCTV Operations, Caption Colorado, LLC to Robert Hess, Director, Broadcast Operations & Engineering, confirming the station's request for captioning coverage on November 1 and Caption Colorado's initiation of continuing coverage starting on November 2, attached hereto.

We note that Ms. Viera's complaint, which has a submission date of November 26, claims that she was merely given an "excuse" by the station as to why the final segment of DR. PHIL had not been captioned. Her complaint fails to disclose that she was promised on October 31 that the problem would be fixed as soon as possible or that it was fixed by November 2, more than three weeks prior to the submission date of her complaint.

It should also be noted that the final segment of DR. PHIL averages far less than ten minutes. The station reviewed its traffic logs for the DR. PHIL programs that ran from October 25, 2012 through January 29, 2013. A spread sheet listing the lengths of the final segments of the DR. PHIL program for this period, prepared by the station, is attached hereto. In 53 of those 58 programs, the final segment ran less than four minutes. In the remaining five programs, the final segment ran longer than six minutes only once: on October 30 the final segment ran 6:21.

In sum, only a small portion of the program was not captioned; the absence of captioning was a temporary problem inadvertently caused by a transition between captioning services; and the problem was rectified promptly when brought to the station's attention. CBS therefore submits that what occurred was a de minimis failure under the regulations.

Sincerely,



cc: Judith Viera, via email